FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE,

NAGUR BENCH, NAGPUR.

DISTRICT:

Criminal Application No.1581/2005

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Office Note, Office Memoranda of Coram, appearance, Court's Orders or directors and registrar's orders | Court's or Judge's orders

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Coram : A.P.Lavande, J.
Dated : February 10, 2006

Heard Mr. Nitin Lalwani Advocate holding for Mr. Shyam Dewani, learned counsel for the applicant; Mr. Loney, learned A.P.P. for respondent no.1 and Mr. Dhatrak, learned counsel for respondent no.2.

By this application under Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of proceedings in Criminal Case No. 306/2004 pending against him before the Judicial Magistrate First Class, Rajura. In the said criminal case he is one of the accused. According to petitioner, on 25.5.2005 respondent no.2 who is the complainant in the said case filed an application for compounding of the offences under Sections 323, 324, 325, 342, 506, 509 read with section 34 of the Indian Penal Code. Besides the said offences, charge-sheet also disclosed the offences under Sections 327, 506 Part II, 509 of I.P.C. as well as Section 3 and 25

of the Arms Act. The application for compounding the above mentioned offences was granted by the learned Magistrate by order dated 27/5/2005. According to learned counsel appearing for the petitioner no purpose would be served if the case under Sections 327, 506 Part II of IPC and under the Arms Act is allowed to proceed since the parties have settled the dispute amongst themselves.

Mr. Loney submitted that the offences under Sections 327, 506 Part II of IPC and the offences under the Arms Act are not compoundable and that no material is placed on record that the parties have settled the said dispute between themselves.

Mr. Dhatrak, learned Advocate for respondent no.2 submitted that according to respondent no.2 he had not signed the application for compounding the above mentioned offences but his signature was obtained by his Advocate for seeking his exemption from appearing in the Court. Mr. Dhatrak categorically submitted that no settlement has been entered into between the petitioner and respondent no.2. He further submitted that the offences under Sections 327 and 506 Part II of IPC as well as under the Arms Act are not compoundable and there is no question of quashing the proceedings in Criminal Case No.306/2004.

I have considered the submissions made by learned counsel for the parties.

In view of the categorical assertion by learned counsel for respondent no.2 that the dispute between the parties have not been settled, the statement made by learned counsel for the petitioner about settlement of the dispute cannot be accepted. Moreover, as rightly pointed out by learned APP as well as learned counsel for respondent no.2, the offences under Sections 327 and 506 Part of IPC and under the Arms Act are not compoundable. Therefore, the question of quashing the proceedings in the criminal case filed by respondent no.2 does not arise.

In view of the above discussion, I do not find any merit in the application, and the same is rejected.

JUDGE

A.